



Horsham  
District  
Council

# Horsham District Council Habitat Bank Criteria

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## Purpose

Habitat Banks are areas of land where habitat creation and enhancement is undertaken to deliver an uplift to biodiversity. This can be used to deliver Biodiversity Net Gain (BNG).

A number of Habitat Bank providers have contacted the Council and have expressed an interest in entering an overarching S106 legal agreement with Horsham District Council (HDC). In entering a legal agreement, providers can apply to register their Habitat Bank on the Natural England Biodiversity Gain Site Register, which will allow Biodiversity Units to be sold to developers who need to achieve the Biodiversity Net Gain (BNG) requirement as part of the planning process (as introduced under the Environment Act 2021). This will allow developers in the District who are unable to provide on-site BNG the ability to access offsetting within the local authority area.

The purpose of this document is to set out what information and documentation will be required from prospective Habitat Bank providers who wish to enter a S106 legal agreement with HDC to sell Biodiversity Units. This approach will also ensure that the Council is taking a consistent approach when considering entering into any legal agreement with a potential Habitat Bank provider and ensure that it aligns with the Council's expectations to provide good quality habitats in appropriate areas in the District. HDC will need to be satisfied with the provision of information and the proposals of habitat creation and enhancement before signing such an agreement.

## Process

The process by which the Council will consider Habitat Bank providers will follow three stages. The different stages are defined below and the tables provide a checklist that sets out the information necessary for HDC to verify and approve Habitat Bank applications.

### Stage 1: Expression of Interest (EOI)

Submission of an EOI to [planning@horsham.gov.uk](mailto:planning@horsham.gov.uk) with the necessary accompanying supporting documentation. Upon receiving an EOI, HDC will undertake an initial desk-based feasibility assessment.

### Stage 2: Invitation to Discuss

Once an initial assessment has been made, and HDC are content that the proposal is feasible, an invitation will be sent to engage in further discussions. The applicant will then be required to provide further information for HDC to review, evidencing that the proposal is viable and relevant guidance and ecological best practice has been followed. The applicant will also need to agree to bear all legal costs for both parties and agree to pay the HDC monitoring fee. A site visit may be requested by HDC to verify the proposals.

### Stage 3: Legal Agreement

If HDC deem the proposal is ecologically sound and deliverable over a minimum of 30 years, a S106 legal agreement will be drafted, and the terms agreed.

The applicant can then use this S106 legal agreement to register their Habitat Bank on the Biodiversity Gain Site Register.

# Habitat Bank Criteria Checklist

## Stage One - Expression of Interest

Criteria	Supporting Information/Documents Required
<b>General information</b>	<ul style="list-style-type: none"> <li>• Name of landowner.</li> <li>• Contact details (email address and telephone number).</li> <li>• Name, address, grid reference(s), and GIS shapefile of proposed habitat bank, with constraints in/around the site indicated (e.g., designated sites, irreplaceable habitat).</li> <li>• Size of proposed habitat bank.</li> <li>• Current land use.</li> <li>• Date of EOI.</li> <li>• Overview of proposed biodiversity uplift and habitats to be created and/or enhanced.</li> </ul>
<b>Confirmation of ownership</b>	<ul style="list-style-type: none"> <li>• Up to date Land Registry Title and Plan of Land Boundary.</li> </ul>
<b>Tenant/leasehold consideration</b>	<ul style="list-style-type: none"> <li>• Copy of Leasehold/Tenancy Agreement or any other interests in the land, including conditions of contract.</li> <li>• Confirmation of Landowner Consent (that the freehold landowner is willing to enter a S106 legal agreement to secure the land use change and deliver Biodiversity Units on this land for a minimum of 30 years).</li> </ul>
<b>Other land interests</b>	<ul style="list-style-type: none"> <li>• Copies of all land interests associated with the land.</li> <li>• Any existing legal barriers, consents, licences or permissions that sit with the land that would prohibit the undertaking of habitat management works over the 30-year period.</li> </ul>
<b>Contaminated land</b>	<ul style="list-style-type: none"> <li>• Confirmation if the land is contaminated land.</li> </ul>
<b>Additionality</b>	<ul style="list-style-type: none"> <li>• Confirmation of legal, financial, and ecological additionality for the BNG proposed.</li> </ul> <p>The BNG principle of additionality means that BNG must go above 'business as usual'. Any measures or obligations to mitigate a scheme's biodiversity impacts or to better the current status of biodiversity on a site which would have happened regardless cannot count towards BNG (e.g., extant restoration plans, mitigation for impacts on statutory designated sites, irreplaceable habitat, and protected species or existing funding for land management).</p>

Criteria	Supporting Information/Documents Required
<b>Location Plan</b>	<ul style="list-style-type: none"> <li>Map of area proposed for BNG, including individual habitat parcels.</li> </ul>
<b>Habitat Survey and BNG Assessment</b>	<ul style="list-style-type: none"> <li>Habitat survey report undertaken using UKHab 2.0 classification and the completed habitat condition assessment sheets.</li> <li>Evidence of competency of the person who has undertaken the habitat survey.</li> <li>The biodiversity units for the baseline and post-intervention (proposed habitat creation and enhancements) calculated using the relevant off-site tabs of the Statutory Biodiversity Metric. Provision of the completed metric in original Excel format, with all principles and trading rules in the metric user guide adhered to.</li> <li>Evidence of competency of the person who has completed the metric.</li> <li>Justification and reasoning for the habitat creation and enhancements proposed.</li> </ul>
<b>Additional Survey</b>	<ul style="list-style-type: none"> <li>Provision of an Ecological Impact Assessment (EclA) or similar, reporting on ecological constraints on Site and how mitigation will demonstrate up to no net loss and the BNG being additional to this.</li> <li>Applicant to have undertaken appropriate due diligence, also including arboricultural / archaeological / landscape surveys and assessments where necessary (in line with best practice guidelines) and considered other constraints to achieving proposals.</li> </ul>
<b>Irreplaceable Habitats</b>	<ul style="list-style-type: none"> <li>Confirmation that proposals will not adversely affect irreplaceable habitats, as defined in the National Planning Policy Framework (2023) and The Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024. Any irreplaceable habitats should be included in the associated tab of the metric.</li> </ul>
<b>Designated Sites</b>	<ul style="list-style-type: none"> <li>Confirmation that proposals will not adversely affect designated sites (e.g., SAC, SPA, Ramsar, SSSI, NNR, LNR, LWS).</li> </ul>
<b>Plans and Strategies</b>	<ul style="list-style-type: none"> <li>Information on how the BNG proposal would contribute to deliver HDC local plan and green infrastructure policies, and whether it is sited in a strategic location to improve biodiversity and habitat connectivity such as within Biodiversity Opportunity Areas, the Wilder Horsham District Nature Recovery Network, Weald to Waves corridor, or West Sussex Local Nature Recovery Strategy.</li> <li>Justification for BNG proposals generating the best outcome for biodiversity.</li> </ul>
<b>Suitability</b>	<ul style="list-style-type: none"> <li>Consideration of how BNG proposed is suited to land conditions (e.g., soil type and hydrology, typography, levels of sun/shade/exposure. Consider tests to support assessment), national character areas, landscape character areas, surrounding habitats, including wildlife corridors and steppingstone habitats. Costed remediation plan for contaminated land will need to be provided, and feasibility of proposals.</li> <li>Management plans or third parties that have been consulted (e.g., National Landscapes management plans, Environment Agency River Basin Management Plans).</li> <li>Consideration of how habitats proposed do not increase risk of bird strike in Airport safeguarding zones.</li> </ul>

<b>Best Practice</b>	<ul style="list-style-type: none"> <li>Evidence that the proposed BNG scheme meets BNG Best Practice: <ul style="list-style-type: none"> <li>CIEEM (2016) BNG Best Practice Principles</li> <li>British Standard BS8683:2021 Process for Designing and Implementing BNG.</li> </ul> </li> </ul>
<b>Habitat Management and Monitoring Plan (HMMP)</b>	<ul style="list-style-type: none"> <li>Detailed and costed habitat creation and enhancement proposals as captured in the Statutory Biodiversity Metric, and details of management, the responsible person(s) for management, monitoring, the responsible person(s) for monitoring and issuing monitoring reports to HDC.</li> <li>Details of how the target conditions (using condition assessment criteria) for each habitat parcel will be met by the end of the 30-year period.</li> <li>Sets out when the habitat surveys will take place over the 30-year period, how frequently the council will receive monitoring reports, and the proposed date of habitat creation and enhancements commencement.</li> <li>Confirmation if there will be sectional implementation (and different dates of when the baseline is taken) i.e., different parcels of land will be enhanced at different times, triggering different 30-year monitoring periods. Note, sectional implementation will result in additional monitoring fees paid to HDC. All sections will need to be spatially mapped.</li> </ul>
<b>Competence</b>	<ul style="list-style-type: none"> <li>Proof of competence for undertaking ecology surveys, UKHab surveys and condition assessments, and for delivering the habitat creation/enhancements, including any professional advisors.</li> </ul>
<b>Cash-flow</b>	<ul style="list-style-type: none"> <li>Submission of financial information to demonstrate that capital costs can be met, and sufficient funds in place to manage and monitor the proposals for a minimum of 30-years.</li> </ul>
<b>Legal and Monitoring Fee</b>	<ul style="list-style-type: none"> <li>Agree to bear legal costs of HDC and pay the council monitoring fee(s) for the compliance monitoring and enforcement of the HMMP over the 30-year period.</li> </ul>
<b>Biological Records Centre</b>	<ul style="list-style-type: none"> <li>Confirmation that all ecological data from the habitat bank will be submitted to Sussex Biodiversity Record Centre, and proof of submission included within the monitoring reports to HDC.</li> </ul>

### Stage Three - Legal Agreement

Criteria	Supporting Information/Documents Required
<b>S106 Agreement</b>	<ul style="list-style-type: none"> <li>The terms to be agreed will involve date/notification of habitat creation and/or enhancements commencement, date/notification of monitoring phase, notification of practical completion, notification of Natural England Biodiversity Gain Site Register ID, monitoring reports submitted at stipulated intervals, notification of allocations to developments, permissions for HDC or a subcontractor to enter the land for inspections, remedial actions and enforcement of breaches if management prescriptions and targets promised are not delivered.</li> </ul>

## Disclaimer

HDC reserves the right to prioritise habitat bank applications that best serve the interests of the Council. Interests may include the district's need for habitat banks with regards to supply and demand, its strategic location in terms of helping support local development or creating new natural open spaces for the public where it is most needed, the intention to sell fractional units on the BNG market to aid smaller development, and the types of habitats that are being created or enhanced and its connection with the wider landscape. It is therefore encouraged that potential habitat bank providers review the Council's webpage and local plan, policy, and guidance documents to align their proposals as best as possible.

HDC also reserves the right to refuse to enter legal agreements with potential habitat bank providers in situations where the above criteria are not met, or when internal capacity and resourcing is restricted.